IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 1684 OF 2004

M/s. Ispat Profiles India Ltd. ..Petitioner.
V/s.
M/s. Usha Ispat Ltd., & Anr. ..Respondents.

Mr. A.P. Mundargi i/by Manish Patil for petitioner.
Mr. A.S.Shitole, APP for Respondent -State.

CORAM : A.S. AGUIAR, J.
DATED : 01.09.2004

PC:-

. Heard the learned Advocate for the petitioner and learned APP for the State.

. By this petition, the petitioner seeks quashing the issue of process and also quashing of the order of the learned J.M.F.C., rejecting application for recall of process and the order of the Sessions Court, confirming the order of learned JMFC. The application for recall was rejected on the ground that there was no authorisation for filing the complaint. The orders of the learned JMFC and Sessions Court, did not deal with the contentions of the petitioner that section 420, was not attracted as there were no basis either in the said complaint or in the statutory notice nor any averments made in the complaint before the court to attract the offence u/s. 420. It is a specific case of the petitioner

that the original dispute, which was in respect of Rs. 1.25/- crores was settled and the amount was reduced to Rs. 95/- lakhs. The original cheque issued for sum of Rs. 1.25/- crores bounced and the complaint was filed on the dishonour of the cheques. The subsequent settlement, reducing the disputed amount to Rs. 95/- lakhs indicates that there was no intention to cheat. More over, there are no averments made nor any basis laid either in the statutory notice or in the complaint, making out the charge under section 420. The learned Advocate for the petitioner prays that he be allowed to agitate this point before the learned JMFC and seeks liberty to again approach the JMFC, for dropping the charge under section 420. This seems to be a reasonable proposition.

. In view thereof, liberty to the petitioner to approach the trial court i.e. learned J.M.F.C., for dropping of the said charge under section 420.

. With the above order, the petition stands disposed of.

. Parties be supplied an authenticated copy of this order.

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